

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JONATHAN WILHELM and APRIL
WILHELM,

Defendants.

CR 20-36-BU-DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Findings & Recommendation Concerning Plea for both Jonathan Wilhelm and April Wilhelm. (Docs. 22; 25.) Because the parties have filed no objections, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews Judge DeSoto's findings and recommendations for clear error. *McDonnel Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

The Wilhelms are charged with one count each of attempted income tax evasion in violation of 26 U.S.C. § 7201. (Doc. 1.) Prior to their arraignments or initial appearances, they moved this Court for an order "combining their November

19, 2020 initial appearances before Magistrate Judge DeSoto, with entry of pleas to the charges against them.” (Doc. 13 at 2.) This Court construed the motion “as a motion [for the Wilhelms] to enter a plea” and referred it to Judge Desoto. (Doc. 14.)

Judge DeSoto recommends that this Court adjudge both Johnathan Wilhelm and April Wilhelm guilty as to one count each of attempted income tax evasion in violation of 26 U.S.C. § 7201, after they appeared before her pursuant to Rule 11 of the Federal Rules of Criminal Procedure. (Docs. 22; 25.) The Court finds no clear error in Judge DeSoto’s findings and recommendations and will adopt them in full. (*Id.*) As is the Court’s practice, any decision regarding acceptance of a plea agreement will be deferred until sentencing.

Accordingly, IT IS ORDERED that Judge DeSoto’s findings and recommendations (Docs. 22; 25) are ADOPTED in full.

IT IS FURTHER ORDERED that the Wilhelm’s motion (Doc. 13) is GRANTED.

IT IS FURTHER ORDERED that Johnathan Wilhelm and April Wilhelm are adjudged guilty as charged in the Information (Docs. 1; 20; 23.)

DATED this 4th day of December, 2020.



Dana L. Christensen
Dana L. Christensen, District Judge
United States District Court